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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/457,173 12/08/99 JACOBSON J JACOB100

IM22/0314

EXAMINER

BRADFORD R L PRICE  
BAXTER HEALTHCARE CORPORATION  
FENWAL DIVISION  
RT 120 & WILSON ROAD  
ROUND LAKE IL 60073

KIM, S

ART UNIT

PAPER NUMBER

1723

DATE MAILED:

03/14/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No. <b>09/457,173</b>	Applicant(s) <b>Jacobson</b>
	Examiner <b>John Kim</b>	Group Art Unit <b>1723</b>

Responsive to communication(s) filed on Jan 2, 2001

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 1-102 is/are pending in the application.

Of the above, claim(s) 6-13 and 31-101 is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-5, 14-30, and 102 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). 2,3

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1. Applicant's election with traverse of Group I, species 1 (claim 5) in Paper No. 6 is acknowledged. The traversal is on the ground(s) that claims 1-4, 6-10, 13-27 and 102 reads on species 1 as shown in Figure 4. Applicant is correct in stating that claim 5 reads on Figure 7 instead of Figure 4. It is examiner's position that species 1 (claim 5) reads on Figure 7. Species 2 (claims 6-9) reading on Figures 5-6 and species 3 (claims 10-13) reading on Figures 8a-8b are distinct from species 1 (claim 5).

2. Claims 6-13 and 31-101 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention, the requirement having been traversed in Paper No. 6.

3. The information disclosure statement filed 4/11/00 and 10/2/00 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-18, 21-29 and 102 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,753,014 (hereinafter referred to as Van Rijn). Van Rijn teaches a membrane filter comprising a polymeric filter layer made of polyamide (etchable and photosensitive) including etched micron-scaled precision shaped pores of square, circular, or elongated cross section and a polymeric support layer made including multiple support layers with different pore sizes wherein the support layer is thicker than the filter layer, pore size ranges from 5 nanometers to 50 microns and filter layer is used to remove leukocytes (see figures 1, 9-15b, 31-34; col. 1, line 57 - col. 9, line 5; col. 11, line 22 - col. 13, line 14).

7. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Rijn as applied to claim 1 above, and further in view of U.S. Patent No. 5,807,406 (hereinafter referred to as Brauker et al). Claims 19-20 essentially differ from the apparatus of Van Rijn in reciting that polymeric material of filter layer and support layer is an etchable or photosensitive polyimide material. Van Rijn teaches a membrane filter made of polyamide which is etchable or photosensitive. Brauker et al teaches a porous microfabricated polymer membrane structure made of etchable or photosensitive polyimide (see abstract). It would have been obvious to a person of ordinary skill in the art to substitute polyimide for polyamide of Van Rijn as a filter and a support layer since these materials are in a similar class of polymer and possessing characteristics of being etchable or photosensitive.

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8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 5,849,208 and 4,797,175 and 5,651,900 and 5,985,328 teach porous membrane structures made by etching or lithography.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kim whose telephone number is (703) 308-2350. The examiner can normally be reached on weekdays from 7:00 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker, can be reached on (703) 308-0457. The fax phone number for official response after final action is (703) 305-3599, and the fax phone number for all other official faxes is (703) 305-7718.

When sending a draft amendment by fax, please mark the paper as "DRAFT"; otherwise, mark the paper "OFFICIAL". This will expedite the processing of the paper.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.

  
John Kim  
Primary Examiner  
Art Unit 1723

J. Kim  
March 11, 2001